

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of  
Inquiry into Policies and  
Programs to Assure Universal  
Telephone Service in a  
Competitive Market Environment

RM-8388

COMMENTS OF NYNEX

New York Telephone Company and New England Telephone and Telegraph Company (collectively, "NYNEX"), hereby submit their Comments on the Petition of MFS Communications Company, Inc. for a Notice of Inquiry and En Banc Hearing ("Petition") filed with the Commission on November 1, 1993.

I. INTRODUCTION

MFS Communications Company, Inc. ("MFS") petitions the Commission to issue a Notice of Inquiry ("NOI") and convene an en banc hearing "to determine future policies for continuing to promote universal telephone service in a competitive market."<sup>1</sup> MFS states that, "competition is on the horizon"<sup>2</sup>

<sup>1</sup> Petition at p. ii.

<sup>2</sup> Ibid.

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and that an NOI is necessary for the Commission "to determine future policies assuring the continued availability of universal telephone service as certain aspects of the local telephone market become increasingly competitive."<sup>3</sup>

NYNEX agrees with MFS that the Commission should establish a comprehensive proceeding to consider universal service and subsidy issues.<sup>4</sup> MFS' Petition is particularly timely, since preservation of universal service in a rapidly changing telecommunications marketplace is already the subject of intense discussion in industry fora and in Congress. It is also important that such a proceeding be expedited so that it be properly coordinated with other regulatory reform efforts. In particular, as NYNEX, and others, have demonstrated in a variety of proceedings, reform of the Commission's interstate access charge rules is urgently required.<sup>5</sup> This will require that

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<sup>3</sup> Id. at p. 1.

<sup>4</sup> MFS requests that the Commission investigate several issues. These include the questions of (1) which services or users require subsidization; (2) the amount of subsidy required; (3) who should administer subsidy programs; and (4) how the subsidy funds should be raised. MFS urges the Commission to study a proposal drafted by Professor Eli Noam of Columbia University which, MFS states, "appears to offer a method by which funding responsibility could be allocated equitably among all telecommunications service providers without competitive distortions." (Petition at p. iv).

<sup>5</sup> See Reform of the Interstate Access Charge Rules, RM-8356, Comments of the NYNEX Telephone Companies, dated November 1, 1993; Federal Perspectives on Access Charge Reform, a Staff Analysis, Comments of the NYNEX Telephone Companies, dated September 23, 1993; Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, Comments of the NYNEX Telephone Companies, dated June 11, 1993.

the Commission immediately issue an NPRM for fundamental access reform, as requested by the United States Telephone Association. Furthermore, while it considers access reform and universal service issues, certain interim relief will be necessary, such as that requested by NYNEX in its recent petition for waiver of the Commission's rules to implement the Universal Service Preservation Plan.<sup>6</sup> The Commission must move rapidly on the issue of universal service so that the discussion of that critical issue keeps pace with these other important regulatory initiatives.

II. THE COMMISSION SHOULD ISSUE AN NOI TO EXAMINE UNIVERSAL SERVICE ISSUES

NYNEX agrees with MFS that the Commission should issue an NOI to solicit comments from interested parties on the issues relevant to preservation of universal service in a competitive market. The telecommunications marketplace is changing rapidly, and the preservation of universal service with the growth of competition is one of the most important and pressing challenges facing the Commission. Furthermore, the NOI should be issued as soon as possible. Universal service issues are already the subject of intense discussion in industry fora and in Congress. NARUC recently initiated a study of universal service issues

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<sup>6</sup> NYNEX has demonstrated that, because of the dramatic growth of competition in its territory, it should be granted a waiver of the Commission's rules in order to align its rates more closely with costs in the most competitive market areas. See NYNEX Transition Plan to Preserve Universal Service in a Competitive Environment, filed December 15, 1993 ("NYNEX Petition").

from a state perspective, while NTIA has begun hearings on the subject. Moreover, universal service is clearly a matter of great interest to Congress, as evidenced by the recent legislation introduced by Congressmen Markey and Fields. This legislation would require that the Commission and state regulators, through a Joint Board process, develop recommendations for the preservation of universal service. The Commission should issue an NOI as soon as possible to help focus the debate on these important issues, and should expedite the proceeding to the extent possible so that it can be properly coordinated with other related initiatives.

Furthermore, MFS has correctly identified the principal questions that should be the subject of that NOI. The Commission must solicit comment concerning the extent to which universal service is supported through "implicit" and "explicit" subsidies in interstate rates, and how support flows should be structured in the future. The Commission must also consider whether the current methods of administering the subsidy are adequate, or whether new methods are appropriate.<sup>7</sup>

While NYNEX supports MFS' request for an NOI, that proceeding should not delay other pending access reform initiatives. Rather, the NOI proceeding should be expedited so that it is properly coordinated with those initiatives. In the Petition, MFS appears to suggest that access reform should await

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<sup>7</sup> While NYNEX supports MFS' request for an NOI, an en banc hearing is not necessary for such an inquiry. Written comments from interested parties would be an appropriate, and entirely adequate, method to build the record necessary for Commission decision on these issues.

the consideration of universal service issues by the Commission.<sup>8</sup> Reform of the Commission's access charge rules can wait no longer.<sup>9</sup> As NYNEX, and others, have demonstrated, in light of dramatic changes which have occurred in the interstate access marketplace, a comprehensive rulemaking for fundamental reform of the Commission's interstate access rules is required now.<sup>10</sup>

III. MFS' CLAIM THAT LECs HAVE OVERSTATED THE AMOUNT OF THE  
SUBSIDY IN INTERSTATE ACCESS RATES IS INCORRECT

NYNEX agrees with MFS that excessive subsidies are harmful because they create economic inefficiencies.<sup>11</sup> NYNEX, however, strongly disagrees with MFS' assertion that the LECs have overstated the amount of the "implicit" subsidy contained in their rates in order to discourage regulators from introducing increased local service competition.<sup>12</sup>

State and federal regulatory commissions have promoted universal service by requiring LECs to price basic residential exchange service below cost and to support residential service

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<sup>8</sup> Petition at p. 7.

<sup>9</sup> Id. at p. ii.

<sup>10</sup> See NYNEX Petition at pp. 13-26; Reform of the Interstate Access Charge Rules, RM-8356, Comments of the NYNEX Telephone Companies, dated November 1, 1993; Federal Perspectives on Access Charge Reform, a Staff Analysis, Comments of the NYNEX Telephone Companies, dated September 23, 1993.

<sup>11</sup> Id. at p. 13.

<sup>12</sup> Id. at pp. 2 and 13-17.

by pricing toll and access services above cost.<sup>13</sup> Costs have been overallocated to the interstate jurisdiction in general, and to switched access in particular. NYNEX has demonstrated that the amount of this "implicit" subsidy is very substantial. NYNEX's interstate carrier access services alone provide approximately \$1 billion in universal service support to basic residential toll service.<sup>14</sup> IntraLATA toll services and New York Regional Call Plan provide additional universal service support. MFS misses the point when it suggests that, as long as revenues from local exchange service, intraLATA toll service and switched access usage exceed loop costs there is no subsidy.<sup>15</sup> MFS' approach simply ignores the fact that the Commission's access charge rules overallocate costs to the interstate jurisdiction, producing interstate access rates priced well above cost, which in turn provides an implicit subsidy for basic residential exchange service.

Furthermore, NYNEX has never used the discussion of subsidies to discourage regulatory initiatives designed to increase competition. NYNEX agrees with MFS that competition still may be "on the horizon" in some areas. However, as demonstrated in the NYNEX Petition, it is already intense in NYNEX's region, in part because of pro-competitive initiatives undertaken by state regulatory commissions. The current rate structure for switched access provides an overwhelming incentive

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13 NYNEX Petition at pp. 5-12.

14 NYNEX Petition at Exhibit 4.

15 Petition at p. 14.

for IXC's and large and medium business users to pursue a variety of alternative access arrangements.<sup>16</sup> Differences in competitive conditions throughout the nation will require that the Commission grant interim relief to carriers facing unique circumstances, such as NYNEX, while it considers an overall plan for access reform and preservation of universal service. A more cost-based rate structure for switched access rates, as proposed in the NYNEX Petition, is essential to enable NYNEX to maintain universal service in the face of competition.

#### IV. CONCLUSION

NYNEX agrees with MFS that the Commission should issue an NOI to solicit the views of industry participants concerning appropriate long term reform of the subsidies, both "implicit" and "explicit", contained in LEC access rates, so that universal service can continue to be assured in a competitive environment.

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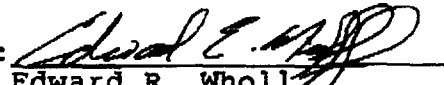
<sup>16</sup> This problem is most acute in the NYNEX region because (1) it has the largest concentration of high volume/low cost business markets; (2) state regulators have taken aggressive actions to allow the CAPs to operate as local telephone companies; (3) expanded interconnection for Switched and Special Access services was made available in both state and federal jurisdictions far in advance of other parts of the country; (4) CAPs have already achieved a greater penetration than in other regions; and (5) competition has also been generated by cable companies and by IXC's who have pursued terminating bypass arrangements with large end users.

Moreover, the NOI proceeding should be expedited so that it is properly coordinated with other regulatory initiatives, such as reform of the Commission's access charge rules, and the NYNEX Petition.

Respectfully submitted,

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and  
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Dated: December 16, 1993



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing COMMENTS OF NYNEX, was served by first class United States Mail, postage prepaid, to the party indicated below, this 16th day of December, 1993.

  
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